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DB(m)137

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Pittsburgh-03-024]

USCG 2004-16938-28

RIN 1625-AA00

Safety Zone; Monongahela River Mile Marker 0.0 to Mile
Marker 0.3, Pittsburgh, ^{PA}Pennsylvania.¹⁸

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the waters of the Monongahela River from mile marker 0.0 to mile marker 0.3, extending the entire width of the river. This safety zone is needed to protect spectators and vessels from hazards associated with the Children's Hospital Gala fireworks display. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port Pittsburgh, or a designated representative.

DATES: This rule is effective from 10:15 p.m. through 11:30 p.m. on October 3, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Pittsburgh-03-024] and are available for inspection or copying at U. S. Coast Guard Marine Safety Office

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Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This rule will only be in effect for a short period of time and notifications to the marine community will be made through broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this ^{re}~~proposed~~ rule will not have a significant economic impact on a substantial number of small entities. This rule

will effect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit that portion of the Monongahela River from mile marker 0.0 to mile marker 0.3, extending the entire width of the river. This rule is effective from 10:15 p.m. through 11:30 p.m. on October 3, 2003.

This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will only be in effect for a short period of time.

If you are a small business entity and are significantly ~~effected~~^{affected} by this regulation please contact CPO Doug Alexander, U. S. Coast Guard Marine Safety Office Pittsburgh, Suite 1150 Kossman Bldg. 100 Forbes Ave. Pittsburgh, PA at (412) 644-5808 ext. 2112.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these

actions annually and rates each agency's responsiveness to small businesses. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule

elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph 34(g), of the Instruction, from further environmental documentation.

Under figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6 160.5; Department of Homeland Security Delegation No. 0170.1. ¹⁸

2. A new temporary § 165.T08-~~137~~ is added to read as follows:

165.T08-~~137~~ Safety Zone; Monongahela River Mile Marker 0.0 to Mile Marker 0.3, Pittsburgh, Pennsylvania.

(a) Location. The following area is a Safety Zone: The waters of the Monongahela River from mile marker 0.0 to mile marker 0.3, extending the entire width of the river.

(b) Effective date. This rule is effective from 10:15 p.m. on October 3, 2003, through 11:30 p.m. October 3, 2003.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port

Pittsburgh.

(2) Persons or vessels requiring entry into or passage through a safety zone must request permission from the Captain of the Port Pittsburgh, or a designated representative. They may be contacted on VHF-FM Channel 13 or 16, or contact Coast Guard Group Ohio Valley at 1-800-253-7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh, and designated on-scene U. S. Coast Guard patrol personnel. On-scene U. S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U. S. Coast Guard.

Dated: 2 Oct 2003

W. W. Briggs
W. W. BRIGGS
Commander, U. S. Coast Guard
Captain of the Port